United Nations A/HRC/28/NGO/161

General Assembly

Distr.: General
27 February 2015

English only

Human Rights Council
Twenty-eighth session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-03805 (E)

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Nigeria: Boko Haram and Nigerian military committing crimes under international law in north east Nigeria

BACKGROUND

Through ongoing research since 2009, Amnesty International has gathered evidence that raises the reasonable belief that the armed group known as Boko Haram and the Nigerian military have committed crimes under international law in the context of the conflict in north east Nigeria. While the government has the obligation to investigate, and where appropriate, prosecute and punish crimes under international law, there have not been sufficiently prompt, independent and effective investigations into allegations raised by Amnesty International and other organisations.

BOKO HARAM

Since 2009 Boko Haram has launched a violent campaign against the Nigerian state and its civilian population. The conflict escalated significantly in the last 12 months as Boko Haram conducted almost daily attacks in north east Nigeria, which killed more than 4,000 civilians in 2014.

The evidence collected by Amnesty International indicates that Boko Haram has committed crimes under international law, including war crimes and crimes against humanity. Boko Haram should be investigated for the following crimes under international law:

- Killings of civilians: In attacks on towns and villages in the north east, bomb attacks across the country and in areas under its control, Boko Haram has deliberately killed thousands of civilians. The group has targeted politicians, civil servants and others associated with the government. It has also targeted civilians in towns which established state-sponsored militia groups, known as the "Civilian Joint Task Force" (CJTF);

- Imprisonment and abductions: Boko Haram has abducted hundreds of civilians during raids on towns and villages. Politicians and civil servants have been held for ransom. Others, such as health workers or mechanics, have been abducted for their specialist skills. Boko Haram has also imprisoned civilians in towns under its control;

- Forced marriage, rape and sexual slavery: Girls and young women abducted by Boko Haram have, in some cases, been forced into marriage with Boko Haram members;

- Recruitment and use of child soldiers: Boko Haram has trained and used boys and girls during combat; and

- Pillage and targeting civilian objects: During raids on towns and villages, as well as in areas under its control, Boko Haram has looted homes, shops and markets. It has also attacked schools, hospitals and other civilian buildings.

NIGERIAN SECURITY FORCES

In its response to Boko Haram, the Nigerian armed forces, often relying on assistance from the CJTF, have committed serious human right violations. The evidence in Amnesty International's possession suggests that Nigeria's military has also committed crimes under international law, which may include war crimes and crimes against humanity. Amnesty is concerned by:

- Deaths in custody: More than a thousand suspects have died in military detention facilities as a result of extrajudicial executions, torture, starvation, disease, suffocation or other reasons associated with extremely poor detention conditions;

- Extrajudicial executions: Hundreds of men have been extrajudicially executed by the military while in detention or upon arrest. On 14 March 2014, Nigerian soldiers executed more than 640 recaptured detainees in

Maiduguri, after they were released during a Boko Haram attack on Giwa barracks. In August 2014 Amnesty International published video footage showing soldiers and CJTF members cutting the throats of six of these recaptured detainees in front of two open mass graves. According to eyewitness accounts nine people were killed in this way, while eight others were shot to death;

- Torture and other cruel, inhuman or degrading treatment: The military has tortured suspects in custody and kept them in overcrowded cells, without access to adequate sanitary facilities, food, water or medical care. These conditions amount to cruel, inhuman or degrading treatment;

- Arbitrary arrests: The military has arrested large numbers of civilians since 2009 without reasonable grounds, including through using unreliable hidden informants to screen entire communities of villages and towns in Borno and Yobe states. The military has also arrested relatives of Boko Haram suspects in lieu of the suspect; and

- Unlawful detention: In detention centres in the north-east and other locations in Nigeria, detainees have not had access to their families, lawyers or adequate medical attention. Those detained are allegedly held because they are members or supporters of Boko Haram, but most have never been charged and have not been brought before a court.

IMPUNITY

Amnesty International believes that the Government of Nigeria has failed to take prompt and effective steps to investigate and hold accountable most perpetrators of serious crimes on all sides, including Boko Haram, Nigerian military forces and the CJTF.

The military alleges that it has arrested large numbers of Boko Haram suspects. However, Amnesty International believes that in the majority of cases there is no reasonable suspicion that those arrested are linked to Boko Haram or have committed crimes under international law, and indeed there have been very few prosecutions of persons allegedly detained as Boko Haram suspects. Few, if any, of the prosecutions appear to be of senior Boko Haram commanders. Further, no suspects have been charged with crimes under international law. The failure to investigate and prosecute those allegedly responsible for these crimes under international law constitutes impunity.

The Government has also failed to adequately investigate and prosecute most allegations of violations of international humanitarian and human rights law committed by its armed forces and the CJTF, including the following emblematic cases:

- Amnesty International has repeatedly urged the government to initiate investigations into the high rates of deaths under military custody, with a view to ascertaining the reasons for the high rates of death and, if sufficient evidence is gathered, prosecuting those responsible. As far as Amnesty International is aware, no such investigations have been carried out to date; and

- On 14 March 2014, soldiers in Maiduguri extrajudicially executed more than 640 recaptured detainees freed by Boko Haram from the Giwa Barracks. After Amnesty International published video evidence of some of these executions in August, the government announced an internal military investigation into the allegations. The precise mandate, composition and timeline for this investigation has not been made public. No one has been held accountable for these executions.

RECOMMENDATIONS

Amnesty International urges the Human Rights Council and its members and observer states at the 28th session to urge Nigeria to:

- Respond positively to the requests to visit Nigeria made by the Special Rapporteur on the promotion and

protection of human rights and fundamental freedoms while countering terrorism, in fulfilment of recommendations Nigeria supported at the 17th Session of the Universal Periodic Review (UPR)[1];

- Develop and implement all necessary measures to put an end to the violations of human rights by security forces, including extrajudicial killings, torture and arbitrary arrests, in fulfilment of recommendations Nigeria supported at the 17th Session of the UPR[2]; and

- Strengthen the system of independent monitoring in all detention facilities in accordance with the Optional Protocol to the Convention against Torture and establish a human rights monitoring system which allows access to detention centres in Northern Nigeria as recommended by member states and accepted by Nigeria at the 17th session of the UPR[3].

In light of the deteriorating human rights situation in north east Nigeria, Amnesty International urges the Human Rights Council to become actively seized of the situation.

Amnesty International urges the Government of Nigeria to:

- Initiate independent, impartial, and thorough investigations into allegations of crimes under international law, including crimes against humanity and war crimes, committed by members of Boko Haram and the Nigerian military. Where sufficient admissible evidence is gathered, alleged perpetrators should be prosecuted in fair trials, without recourse to the death penalty;

- Take immediate and effective measures to guarantee the safety, security and protection of civilians and their property , and increase efforts to secure the lives and integrity of the civilians in accordance with its regional and international human rights obligations;

- Ensure that its security forces and members of the "Civilian Joint Task Force" adhere strictly to their obligations under international human rights law and international humanitarian law, in particular, ensure that detainees are protected from extrajudicial executions, torture and other ill-treatment and are treated humanely at all times;

- Ensure that no-one is arrested or detained in relation to the prevention, investigation or prosecution of crimes allegedly committed by members of Boko Haram in the absence of reasonable grounds to suspect them of responsibility for a recognisable criminal offence;

- Ensure that domestic law and practice relating to the detentions of suspects conform fully with international human rights treaties ratified by Nigeria as well as international human rights standards;

- Immediately ensure that no one is held in life-threatening or inhumane conditions and to this end, either immediately release all individuals detained by the military or ensure that they are transferred into the lawful custody of the police and brought immediately before a court to determine the legality of their detention; and .

- Issue invitations to the Special Rapporteurs on torture and other cruel, inhuman or degrading treatment or punishment, and on extrajudicial, summary or arbitrary executions to visit Nigeria.

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[1] Recommendations 135.39 to 135.41, 16 December 2013 "Report of the Working Group on the Universal Periodic Review: Nigeria" United Nations Human Rights Council A/HRC/25/6.

[2] Recommendations 135.68 to 135.73, ibid.

[3] Recommendations 135.34, 135.73, 135.108 to 135.109 and 135.112, ibid.